THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

+Writ Petition No.5435 of 2007

% 16.03.2007

Between:

M/s Om Logistics Limited

…Petitioner

And

The Divisional Forest Officer, Adilabad and another

…Respondents

! COUNSEL FOR Petitioners: Sri O.Manoher Reddy

^ COUNSEL FOR RESPONDENTS: G.P. for Forest

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> Head Note:

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Dated 16-03-2007

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ORDER:

The petitioner is a multi model transport agency, having its

registered office at Delhi. It entrusted a consignment of automobile parts to a vehicle bearing No.MP-6E-3105, owned by one Sri Basudev Singh, to be transported from Faridabad to Chennai. The lorry was intercepted at Adilabad, on 27-02-2007, in the Adilabad District. On finding that the vehicle was loaded with some teak logs, the Sub-Divisional Forest Officer, the 2nd respondent, seized the vehicle, and placed it before the 1st respondent for necessary steps, under Section 44 of the A.P. Forest Act, 1967 (for short 'the Act').

The petitioner submitted an application before the 1st respondent for release of the automobile parts. Initially, the 1st respondent required the petitioner to pursue the matter with the 2nd respondent. Thereafter, through a separate letter, he called for the remarks of the 2nd respondent. Petitioner complains that, on account of the delay in release of the parts, it is exposed to damages, and pressure from the consignor. It is also the case of the petitioner that the automobile parts do not answer the description of the forest produce, or the receptacle, as defined under the Act, and that there is no basis for the respondents in seizing the automobile parts.

Heard the learned counsel for the petitioner and learned Government Pleader for Forest.

The A.P. Forest Act and the Rules made thereunder provide for seizure and confiscation, not only of the forest produce, but also the receptacle, if they are not covered by valid permits. A lorry engaged by the petitioner, for transporting automobile parts; was seized by the 2nd respondent, on finding that teak logs were loaded in it. The liability of the owner of the lorry, as well as the teak logs, for seizure and confiscation of the same; has to be decided by the

1st respondent, in the final order to be passed under Section 44 of the Act, after considering the explanation, that is to be submitted in relation thereto.

There is no provision in the Act, or the Rules, enabling seizure or confiscation of goods, which do not answer the description of forest produce, or a receptacle, or vehicle. Whatever be the circumstances, under which the forest produce was found to be in a vehicle, the goods, which do not answer the description of forest produce, cannot be seized or withheld. The automobile parts, by no stretch of imagination can be treated as contraband.

In view of the observations made by the Supreme Court, from time to time, the vehicles involved in illicit transport of forest produce, cannot be released by way of interim orders.

The goods, which are not forest produce, but are incidentally present in the seized vehicle, however, stand on a different footing. Even if the allegations against the owner of the vehicle, and owner of the seized forest produce, are proved, the occasion to confiscate the automobile parts cannot be confiscated.

For the foregoing reasons, the writ petition is disposed of, directing the respondents to release the automobile parts of the petitioner, together with their original documents seized by the 2nd respondent, forthwith. It is made clear that such a release shall not have any bearing on the proceedings, *vis-à-vis* the seizure of forest produce, or the vehicle.

There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.16-03-2007.

Note:
L.R copy to be marked.

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